

Remarks/Arguments

There are no amendments to the specification and the drawings herein.

In the Claims, Claims 1-25 are pending. Claims 1-25 are rejected. Claims 1, 9, 12, 16, 19, 21 and 24 are amended herein. No new matter is added. Entry of the amendments and reconsideration are respectfully requested.

Claims 1 and 12 are amended to clarify a relationship between a set of tripods legs and a camera mount recited therein. In particular, the claims are amended to clarify that the set of tripod legs is integral to the camera mount. Claim 19 is amended to clarify that a recited camera tripod comprises both of the camera mount and a set of legs integral to and supporting the camera mount. Claim 21 is amended to clarify that a means for supporting a camera mount comprises a set of tripod legs integral to the camera mount. Support for the above-listed amendments is provided at least by Figures 1-3 which illustrate integral legs (130) as well as Applicant's specification, as originally filed.

Claims 9, 16 and 24 are amended to correct an informality noted by the Examiner. In particular, the Examiner is correct that all batteries are either rechargeable type or non-rechargeable type. Claims 9, 16 and 24 are amended to recite only a rechargeable type battery. Support for the amendments is provided at least by the claims as originally filed.

The Examiner rejected Claims 1-25 under 35 U.S. C. 103(a) as being unpatentable over Kayanuma, US Patent Application Publication US 2002/0186317 A1 (hereinafter 'K-1') in view of Kayanuma, US Patent Application Publication US 2002/0149695 A1 (hereinafter 'K-2').

Applicant respectfully traverses the rejection on the grounds that the combination of K-1 in view of K-2 fails to support a *prima facie* case of obviousness. Specifically, to support a *prima facie* case of obviousness with respect to the rejected claims, there must be, 1) "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings"; 2) "a reasonable expectation of success" in modifying or combining the teachings of the references; and 3) a prior art reference or references when combined that, "teach or suggest all the claim limitations". See MPEP § 2142, *Establishing a Prima Facie Case of*

Obviousness. Moreover, “[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991)”. MPEP § 2142, cited *supra*. The combination of K-1 and K-2 fails to meet these requirements for *prima facie* obviousness with respect to the rejected claims.

In particular, the combination of K-1 and K-2 lacks a legitimate suggestion or motivation to modify/combine the references. For a motivation to combine/modify to be legitimate and therefore, be employed in support of a *prima facie* case of obviousness, there must be, “evidence that ‘a skilled artisan, ***confronted with the same problems as the inventor*** and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed”’ (*emphasis is* added). *Ecolochem, Inc. v. Southern Calif. Edison Co.*, 227 F.3d 1361, 1375, 56 USPQ2d 1065, 1075 (Fed. Cir. 2000) (quoting *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998)) (*emphasis is* added). “[E]ven when the level of skill in the art is high, the Board [or the Examiner] must identify specifically the principle, known to one of ordinary skill, which suggests the claimed combination. In other words, the Board [or the Examiner] ***must explain the reasons*** one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious” (*emphasis* added). *In re Rouffet*, cited *supra*. “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art ***also suggests the desirability*** of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)” (emphasis in original; and *emphasis* added). MPEP §2143.01, at III.

The reasons for and desirability of the proposed combination/modification are not evident from the references or the generally available knowledge. Specifically, to combine K-1 and K-2 “for the advantage of digital camera data backup” fails to address the same problem(s) confronted by Applicant or to provide an explanation why the skilled artisan would have been motivated to combine the references in a manner that rendered the claimed invention obvious. Specifically, there is simply ***no evidence*** to support a finding that, “a skilled artisan, confronted with the same problems as the inventor and with ***no knowledge of the claimed invention***, would

select the elements from the cited prior art references for combination in the manner claimed”. *Ecolochem, Inc. v. Southern Calif. Edison Co.*, cited *supra*. Moreover, there is no explanation of the reasons why the skilled artisan would have been motivated to select and combine the *particular references*.

For that matter, the references themselves seem to support a conclusion that such a combination was *not* obvious. Specifically, both references are attributed to the same inventor, Kayanuma. However, neither in K-1 nor in K-2 does Kayanuma disclose or suggest the combination of (a) a cradle 100 with a memory card 170 as disclosed by K-2, and (b) a cradle 30 mounted on a tripod 60 as disclosed by K-1. If *any* skilled artisan were to find such a combination obvious, surely Kayanuma would have been that skilled artisan. Yet, Kayanuma through the course of two patent applications totaling 206 paragraphs and 26 figures *never once* suggests such a combination.

Similarly, there is *no extrinsic evidence to support* a contention that a teaching, suggestion, or motivation *not found explicitly* in the cited references was *either present implicitly* in that taught by the references (which in this instance, clearly it is not) *or* was *in the knowledge generally available to one of ordinary skill in the art*. Specifically, *nothing is cited* by the Examiner (i.e., no extrinsic evidence) beyond the references themselves to support the rejection.

Thus, a legitimate suggestion or motivation to modify the reference or to combine reference teachings is clearly not found, “either in the references themselves or in the knowledge generally available to one of ordinary skill in the art”, as required to support *prima facie* obviousness. See MPEP, Section 2142, cited *supra*. Also see, MPEP §2143.01 *Suggestion or Motivation to Modify the References* (Obviousness can *only* be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation *to do so* found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art) (*emphasis added*). Therefore, as detailed above, the rejection lacks a legitimate motivation to combine/modify the references.

An absence of a legitimate or supported motivation to combine/modify K-1 and K-2 *in and of itself* defeats a *prima facie* case of obviousness with respect to Claims 1-25. Moreover, given the lack of a supported motivation to combine/modify

the respective references, any consideration concerning what the respective combination may or may not disclose is moot. That notwithstanding, a combination of K-1 and K-2 further fails to disclose or suggest all of the limitations of Claims 1-25, as required to support *prima facie* obviousness.

Regarding amended base Claims 1 and 12, K-1 fails to disclose or suggest a camera tripod as respectively recited therein and further disclosed/defined in Applicant's specification. In particular, in addition to not disclosing a tripod memory as admitted by the Examiner, K-1 fails to disclose a camera tripod comprising **both** a camera mount **and** a set of tripod legs, as recited in Claims 1 and 12. As defined by Applicant, the claimed "camera mount 120 mechanically mounts and electrically interfaces to the digital camera 102" (Applicant's specification, Page 7, line 6).

Instead, K-1 clearly discloses a cradle 30 for holding and supporting the camera and separately discloses attaching the cradle 30 to a conventional tripod 60. In particular, according to K-1, "the camera 10 is mounted on the tripod 60 by using the cradle 30" (K-1, para. [0059]). Further at paragraph [0059], K-1 discloses, "[o]n an upper part of the tripod 60 for the camera, the platform 62 is provided, on which the cradle 30 is placed and a male screw for fixing ... is screwed from beneath the platform 62 to engage with the tripod screw hole 42 shown in FIG. 3, thereby fixing the cradle 30". Thus, K-1 makes it clear that the cradle 30 is not part of the tripod 60 but is merely attached to it using a conventional tripod screw arrangement.

That notwithstanding, Applicant amended Claims 1 and 12 above to clarify that the set of legs is integral to the camera mount. K-1 clearly discloses only a tripod 60 (i.e., conventional tripod) that is separate from the cradle 30. As such, K-1 does not and respectfully cannot disclose or suggest a set of legs that are "**integral to the camera mount**", as is recited in amended Claims 1 and 12 (**emphasis** added).

K-2 fails to add to that lacking in K-1 with respect to a camera tripod comprising both the camera mount and the integral tripod legs as recited in Claims 1 and 12. In particular, K-2 is silent on a set of legs. As such, a combination of K-1 and K-2 fails to disclose or suggest all of the limitations separately recited in amended Claims 1 and 12, respectively.

Similarly, K-1 in combination with K-2 fail to disclose all of the limitations recited in base Claims 19 and 21, as amended herein. With respect to Claim 19, a combination of K-1 and K-2 at least fails to disclose or suggest, "the camera tripod

comprises **both** of the camera mount and a set of legs **integral to** and supporting the camera mount”, as recited in amended Claim 19 (**emphasis** added). The combination of K-1 and K-2 likewise does not disclose or suggest at least, “means for supporting the camera mount comprising a set of tripod legs **integral to** the camera mount”, as recited in Claim 21, as amended herein (**emphasis** added).

Regarding amended Claims 9, 16 and 24, the combination of K-1 and K-2 fails to disclose or suggest a rechargeable type battery. In particular, K-1 is silent on a battery while K-2 discloses only “a large-capacity battery” without disclosing that the battery is rechargeable (K-2, para. [0061]). Therefore, the combination of K-1 and K-2 clearly does not disclose and respectfully cannot suggest, “wherein the tripod power source comprises a rechargeable type battery”, as recited in amended Claims 9, 16 and 24.

Failure by the combined references to disclose or suggest all of the claim limitations further defeats *prima facie* obviousness. See MPEP §2143.03, *All Claim Limitations Must Be Taught or Suggested*. Also see *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Finally, Applicant cannot identify in the present Office Action or discover in the references themselves a reasonable expectation of success in modifying the teachings of K-1 and K-2. The existence of a reasonable expectation of success is required and should be evident from the record; it may not be omitted. Moreover, the reasonable expectation of success and the teaching or suggestion to make the claimed combination, both must be, “found in the prior art, and **not** based on applicant’s disclosure” (**emphasis** added). *In re Vaeck*, cited *supra*.

At least for failing to provide a legitimate motivation to combine/modify and a reasonable expectation for success, as well as for failing to establish that all of the limitations of the rejected claims are disclosed or suggested, the rejection under 35 U.S.C. 103(a) of at least amended base Claims 1, 12, 19 and 21 lacks proper support for a *prima facie* case of obviousness. Furthermore, if an independent base claim is non-obvious under 35 U.S.C. 103, any claim depending therefrom is likewise non-obvious. *In re Fine*, 837, F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988).

Claims 2-11 are dependent from and include all of the limitations of amended base Claim 1. Claims 13-18 are dependent from and include all of the limitations of amended base Claim 12. Claim 20 is dependent from and includes all of the

limitations of amended base Claim 19 while Claims 22-25 are dependent from and include all of the limitations of amended base Claim 21. As such, in addition to that discussed above with respect to Claims 9, 16 and 24, the rejection of dependent Claims 2-11, 13-18, 20 and 22-25 lacks proper support for *prima facie* obviousness for at least the same reasons discussed above with respect to base Claims 1, 12, 19 and 21, respectively.

Hence, the rejection of Claims 1-25 under 35 U.S.C. 103(a) over K-1 in view of K-2 must be withdrawn for lack of proper support for *prima facie* obviousness. Reconsideration and withdrawal of the rejection are respectfully requested.

In summary, Claims 1-25 are pending and were rejected. Applicant amended Claims 1, 9, 12, 16, 19, 21 and 24 herein and submits that Claims 1-25, as amended, are in condition for allowance. Applicant respectfully requests that Claims 1-25 be allowed and that the application be passed to issue at an early date.

Should the Examiner's action be other than allowance, the undersigned respectfully requests a telephone call from the Examiner to discuss further consideration that would expedite the prosecution of the application. Additionally, should the Examiner have any questions regarding the above, please contact the undersigned, J. Michael Johnson, Agent for Applicant, at telephone number (775) 849-3085.

Respectfully submitted,
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I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via EFS-Web on the date shown below.

<u>/J. Michael Johnson/</u>	<u>October 23, 2006</u>
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